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Approved by: 		
Subject: UNIFORM DISCIPLINARY PROCEDURES		

- I. **AUTHORITY:** TCA 4-3-603, TCA 4-3-606, Crafton v. Luttrell, 378 F. Supp. 521 (M.D. Tenn. 1974), Hensley v. Wilson 850 F. 2d 269 (6th Cir. 1988), Wolff v. McDonnell 94 S. CT. 2963 (1974), Baxter v. Palmigiano 96 S. CT. 1551 (1976), Sandin v. Conner, 515 U. S. 472 (1995).
- II. **PURPOSE:** To provide for the fair and impartial determination and resolution of all disciplinary charges placed against inmates committed to the Tennessee Department of Correction (TDOC).
- III. **APPLICATION:** To institutional employees, employees of TRICOR, employees of privately managed facilities, and inmates, excluding inmates who are assigned to and actively participating in a Special Alternative Incarceration Unit (S.A.I.U.) program.
- IV. **DEFINITIONS:**
 - A. **Calendar Days:** A time limit that begins at 12:01 A.M. on the day following the date of the triggering event. Example: If an inmate is charged with a disciplinary offense on the 1st, the 7 day limit set by Section VI.(A)(3)(b) below, would begin to run at 12:01 A.M. on the 2nd and end at 11:59 P.M. on the 8th.
 - B. **Class A Disciplinary Board:** A panel which hears all Class A disciplinary offenses.
 - C. **Commissioner's Designee (CD):** TDOC employee(s) authorized by the commissioner to serve as the approving authority for specific actions occurring at privately managed facilities. In the absence of the CD, the contract monitor assigned to that facility will serve that function. In the absence of both TDOC staff, the necessary notification/request for authorization will be made by telephone to the CD. If the CD is not reachable via phone, the contract monitor will be contacted. If both the CD and contract monitor are unavailable by telephone, the ranking shift officer at TCIP shall be contacted for required authorizations/notifications.
 - D. **Disciplinary Hearing Officer:** An employee appointed by the warden to hear Class B and C disciplinary offenses, and to serve as the chairperson of the disciplinary board.
 - E. **Good Cause:** Circumstances beyond the control of a party (e.g. illness, previously unforeseen need for witness not immediately available, etc.)
 - F. **Informal Resolutions:** A punitive sanction agreed upon between an offending inmate and the employee who observed the violation of certain specified rules. A disciplinary report will not be entered on Incidents (LIBJ) and Disciplinary (LIBK) if informal resolutions are applied. An informal resolution will be documented in Contact Notes (LCDG).
 - G. **Inmate Advisor:** Inmates appointed by the warden who act as advocates for inmates charged with disciplinary infractions.

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- H. Non-disciplinary Due Process Hearing: A hearing conducted by the hearing officer for any of the below-listed reasons:
1. To remove funds from an inmate trust fund account to fulfill an unpaid financial obligation of the inmate, or for fees and costs associated with the filing of frivolous or malicious claims, when the inmate objects to the removal of funds and a garnishment order has not been issued. Criminal Injuries Compensation Fund privilege tax assessed against an inmate which was not paid prior to the inmate's arrival at a TDOC institution may be withdrawn from an inmate's account without a non-disciplinary due process hearing upon receipt of a certified statement from the convicting court clerk stating the amount owed by the inmate as provided by TCA 40-24-107(b). (See Policy #208.03.)
 2. To terminate an inmate from work release.
 3. Following the warden's/commissioner's designee's at privately managed facilities recommended placement of an inmate on administrative segregation. (See Policy #404.10.)
- I. Preponderance of Evidence: The amount of evidence necessary for a party to prevail at a disciplinary hearing. That degree of proof which best accords with reason and probability and is more probable than not.
- J. Warden's Designee: For the purpose of this policy, deputy warden, associate warden of operations, or shift supervisor, and at privately managed facilities assistant warden or chief of security.
- K. Working Days: Includes only days that the institution administrative offices are open for business, normally Monday through Friday, excluding holidays.
- V. POLICY: Fair and impartial disciplinary proceedings will be administered against inmates charged with disciplinary infractions. The procedures contained herein alone shall govern the disciplinary process. This policy is not intended to create any additional rights for inmates beyond those which are constitutionally required. Minor deviations from the procedures set forth below shall not be grounds for dismissal of a disciplinary offense unless the inmate is able to show substantial prejudice as a result and the error would have affected the disposition of the case.
- VI. PROCEDURES:
- A. The Class A Disciplinary Board
1. Each warden shall appoint a minimum of six (6) institutional employees (contract and TRICOR staff are excluded from serving) who shall serve as members of the disciplinary board to hear all Class A disciplinary offenses, and Class B offenses for which accumulated sentence credits may be taken (i.e., where good conduct credits are applied to an inmate's sentence. Prisoner Performance Sentence Credits (PPSC) and Prisoner Sentence Reduction Credits (PSRC) accumulated sentence credits may not be taken for Class B infractions). The warden shall designate one (1) member, normally a sergeant (senior correctional officer (SCO) or assistant shift supervisor as approved by TDOC for privately managed facilities), as chairperson, and at least one alternate. The disciplinary board shall

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function as a subcommittee of the classification committee, and it is the responsibility of said chairperson to initiate reclassification recommendations as deemed appropriate by the majority of the board. The members and chairperson shall be appointed for a six-month term and may be reappointed thereafter not exceeding three (3) consecutive terms. Hereinafter, the Class A disciplinary board of the classification committee will be referred to as "the board." The warden shall cause all disciplinary board members to be entered onto Board/Committee Members (LIBM).

- a. Each Class A (or B, where accumulated good conduct credits may potentially be removed) disciplinary hearing shall be conducted before a panel of at least three (3) members (including the chairperson/alternate), or before one (1) hearing officer for all other Class B and C infractions. All disciplinary hearings that result in the loss of accumulated sentence credits must be conducted by a three (3) member panel.
 - b. The chairperson shall designate board members on a hearing-by-hearing basis and in a manner such that each hearing is held before one (1) ranking correctional officer and one employee each from two (2) other job classifications.
 - c. The chairperson, all board members, and hearing officers shall receive training regarding disciplinary procedures before participating in any hearings. Refresher training will be done when changes are made to the TDOC disciplinary procedures policy. Lesson plans must be available for this training, which shall be documented in the employee's training record.
2. No employee shall be permitted to sit on the panel of the board hearing a given case if any of the following conditions exist. A deputy/associate warden/assistant warden at privately managed facilities shall arbitrate such determinations.
- a. He/she is the reporting employee.
 - b. He/she participated directly in the investigation.
 - c. He/she has personal knowledge concerning the case, except in those instances where knowledge of the incident is so widespread as to be known by most employees (i.e., common knowledge).
 - d. He/she has a personal interest in the outcome of the case.
 - e. He/she is the inmate's assigned counselor, inmate relations coordinator (IRC), or unit manager.
3. The Class A disciplinary board shall be convened on a schedule established by the warden, who shall ensure the following:
- a. No inmate confined in segregation pending a disciplinary hearing should be so confined for more than seventy-two (72) hours, including weekends, prior to a hearing, unless the hearing is continued at the inmate's request.

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Failure to comply with this provision shall not constitute grounds for dismissal of the pending charge. The inmate's pre-hearing status shall be reviewed by the warden/designee within the 72 hours, including weekends and holidays.

- b. No inmate charged with a disciplinary offense should be required to wait more than seven (7) calendar days until his/her disciplinary hearing is held, unless the hearing is continued pursuant to Section VI.(D)(4)(a). Failure to comply with this provision may constitute grounds for dismissal of the pending charge.
- c. No disciplinary hearing shall be held in less than twenty-four (24) hours after the inmate has been charged with a disciplinary infraction, unless a more prompt disposition is requested by the subject inmate and he/she waives the right to a twenty-four (24) hour notice in writing. (See Disciplinary Report Hearing Summary, CR-1834.) The board may honor or refuse the request for such a prompt disposition.
- d. Any amendment, alteration, or substitution affecting the established procedures to be applied at a disciplinary hearing must be communicated to the inmate and inmate advisor at least six (6) hours prior to his/her hearing.

B. Disciplinary Hearing Officer (Class B and C)

- 1. The chairperson of the Class A disciplinary board shall be designated the disciplinary hearing officer, and one alternate disciplinary hearing officer shall be designated by the warden. The hearing officer shall not be permitted to hear any given case if any of the conditions listed above in Section VI.(A)(2) exist.
- 2. The disciplinary hearing officer shall convene hearings for Class B and C offenses on a schedule established by the warden and shall ensure the conditions set forth in Section VI.(A)(3) are adhered to.
- 3. The disciplinary hearing officer shall report all disciplinary incidents that could be considered security threat group (STG) related to the institutional STG coordinator.

C. Inmate Advisor

The warden should designate a minimum of two (2) inmate advisors. Additional advisors may be designated if deemed necessary to ensure that each inmate is afforded an opportunity to receive adequate assistance and to accommodate the number of inmates in the larger institutions.

- 1. Selection of inmate advisors should be based on the inmate's verbal and intellectual ability and understanding of other inmates' problems within the institution. Inmate advisors will be appointed by the warden from a list of inmates on the appropriate job register. (See Policy #505.07.) Each inmate advisor shall be provided with the most current copy of departmental Policies #404.10, #502.01, #502.02, and #502.05, and their meaning shall be fully explained by the Class A disciplinary board chairperson.

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2. The inmate advisors' responsibilities may be full or part-time at the discretion of the warden. (See Policies #505.01 and #505.07.)
3. The warden or designee will maintain a list(s) of current inmate advisors. An inmate accused of a disciplinary infraction shall be permitted to select any advisor from the list so long as that advisor is willing to serve, and the advisor is permitted access to the accused inmate's housing unit.
4. The inmate advisor may act as an advocate for the inmate. The advisors may question employees during their regular workday if they believe these employees may have pertinent knowledge of the incident. These interviews may be made at the employee's duty post if normal security regulations permit. Employees are expected to cooperate by answering reasonable questions by advisors in a truthful manner.
5. Except as noted, the inmate advisor is subject to the same institutional regulations as other inmates.
6. Should the inmate charged with a disciplinary offense choose not to request the assistance of an inmate advisor, he/she may request, from an approved listing of correctional employees, staff assistance in the adjudication of his/her disciplinary case. A staff member may ask the warden/designee to excuse him if he feels that he cannot properly represent the inmate. The warden shall develop a list of staff advisors which shall be available to the chairperson and inmate advisors.

D. Initiation of Disciplinary Action

1. When an employee/contract employee observes a violation of institutional regulations, he/she shall take any of the following actions, depending upon the seriousness of the violation:
 - a. Verbally reprimand, advise, or counsel with the inmate in an attempt to prevent a further occurrence.
 - b. When the infraction is any non-violent Class C offense, the staff member may elect to offer the offending inmate a disciplinary sanction. If this action is selected, it should be initiated prior to entering a formal disciplinary charge on Incidents (LIBJ) and Disciplinary (LIBK).
 - (1) Should the inmate not agree to accept the sanction, the staff member will formally charge the inmate involved in the alleged infraction on Incidents (LIBJ) and Disciplinary (LIBK).
 - (2) Should the inmate agree to accept the sanction, the staff member will notify the shift supervisor/unit manager, and an Informal Disciplinary Record, CR-3172, will be completed and processed for record keeping purposes. (Upon satisfactory completion of the assigned sanction, no official record of the infraction, sanction, or related action will become part of the inmate's official file.)

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- (3) Sanctions will be limited to privilege restrictions and assignment of extra duty so as not to interfere with the inmate's program assignment or violate constitutional rights, i.e., freedom to worship, meal access, etc., and will not exceed a time frame of three (3) days.
 - (4) If an inmate fails to comply with the sanction which he/she has agreed to perform, or fails to perform in a satisfactory manner, he/she shall be written up on the original charge and referred to the disciplinary hearing officer. The time limit for holding a disciplinary hearing in accordance with Section VI.(A)(3) shall be calculated from the time the inmate is served with the formal charge.
 - (5) The warden/designee and commissioner's designee at privately managed facilities shall review all sanctions on CR-3172.
- c. Initiate disciplinary action by entering the incident which prompted the action on Incidents (LIBJ). Staff entering the incident shall be trained in entering, editing, or correcting the incident for the appropriate charge. An incident number will be generated by TOMIS upon the successful addition of the report, and this number shall then be used to add the disciplinary report itself on Disciplinary (LIBK). The report BI01MGL may then be created by using F13 after Disciplinary (LIBK) screen is complete and entered. (See user manual - model CUSE, Procedure - DISN.) A separate screen shall be completed for each infraction with which the inmate is charged. Deletions or modifications to Incidents (LIBJ), Disciplinary (LIBK), or Disciplinary Decision (LIBL), which must be made by staff in central office, shall be submitted to the Assistant Commissioner of Operations on the format provided by that office.
- 2. The disciplinary hearing officer/chairperson may schedule hearings using Schedules (LIMW).
- 3. Generally, there are four (4) basic situations which may surround the issuance of a disciplinary report and charging an inmate with an infraction.
 - a. When the inmate is reasonably passive and cooperative and the charge is a Class C offense. (See Policy #502.05.)

In such cases, the reporting employee shall complete a disciplinary report. An employee (not necessarily the reporting employee) shall read it to the inmate and have the inmate sign the report acknowledging receipt. If he/she refuses to sign, the employee should so note on the form. Copies shall be made and one copy shall be given to the inmate, one copy shall be forwarded to the inmate advisor or appropriate staff member, and the original shall be forwarded to the disciplinary hearing officer/chairperson.

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- b. When the inmate is reasonably passive and cooperative and the charge is a Class A or B offense. (See Policy #502.05.)

In such cases, the reporting employee shall complete a disciplinary report. An employee (not necessarily the reporting employee) shall read it to the inmate and have the inmate sign the report acknowledging receipt. If he/she refuses to sign, the employee shall so note on the form. One copy shall be given to the inmate at that time and a copy should be provided to the inmate advisor or appropriate staff member. The original shall be forwarded to the disciplinary hearing officer/chairperson.

The senior employee in operations shall assess the situation and determine whether to allow the inmate to continue his/her normal duties pending a hearing or whether to place the inmate in segregation. To ensure the safety and security of staff, inmates, and the institution in the following circumstances, the shift supervisor shall segregate inmates who:

- (1) Are witnessed by staff in the act of fighting with/assaulting another person;
- (2) Are witnessed with, or found to have, a deadly weapon on their person;
- (3) Are discovered in the act of, or preparing to, escape;
- (4) Appear to be intoxicated;
- (5) Refuse cell assignment/cell changes;
- (6) Refuse a direct order to leave a specific location, when their continued presence would create a threat to the security of the facility or would create a disruptive situation in the specific location;
- (7) Are witnessed by staff in the act of damaging/destroying facility property, when such damage would create a threat to security or instigate a disruptive atmosphere; or
- (8) Actively, by physical means, prevent or hinder an employee's ability to perform his/her duties.
- (9) At privately managed facilities, within two (2) hours of any such segregation, the shift supervisor shall notify the commissioner's designee, who shall affirm or reject the action taken. This notification shall be documented on BI01MGL and include the name of the shift supervisor, name of the commissioner's designee approving segregation, date, and the time of segregation approval. A Movement/Confinement Checklist shall also be completed for signature by the commissioner's designee. (See Section VI.(E)(4)(a)(6) below.)

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The shift supervisor on duty shall assess the situation and determine, in the following situations, that it is appropriate to request approval from the commissioner's designee to segregate the inmate pending disciplinary action:

- (a) When the inmate is reasonably passive and cooperative and the charge is a Class A or B offense, or
 - (b) In circumstances other than those cited in Section VI.(D)(3)(b) above, when the inmate is violent, intoxicated, or otherwise a potential threat to other inmates, staff, himself, or the orderly operations of the institution (offense(s) is/are Class A, B, or C) or
 - (c) When the inmate is suspected of a Class A or B infraction and the senior security officer determines that approval shall be requested from the commissioner's designee to segregate the inmate pending investigation. (See Section VI.(D)(3)(f) below for additional procedures.)
- (10) If segregation is determined to be unnecessary, the inmate shall be permitted to continue his normal duties pending a hearing, unless precluded by housing/cell change or other eligibility requirements.
- c. When an inmate is violent, intoxicated, or otherwise a threat to other inmates, employees, or self, and the charge is either a Class A, B, or C offense.

In such cases, the inmate should be taken immediately to segregation or restrained. The reporting employee then should complete the disciplinary report. The senior ranking employee in the security office should note that the inmate has been confined and shall sign the disciplinary report. The shift supervisor shall be promptly advised of the segregation or transfer and require that proper entry be made on Segregation (LIBD) or Arrival/Departure (LIMD). An employee (not necessarily the reporting employee) should then be assigned to read the report to the inmate. The inmate should be asked to sign the report acknowledging receipt. If he/she refuses to sign, the employee should so note on the form. One copy shall be given to the inmate at that time. A copy should be provided to the inmate advisor or staff member, and the original should be forwarded to the disciplinary hearing officer/chairperson. Those articles of property which he/she is permitted to have in segregation or at the receiving institution should be brought to the inmate. All other personal belongings in the living area should then be collected, inventoried in writing by an employee, and stored safely and securely at the facility. The inmate should be provided with a copy of the inventory. For privately managed facilities, the commissioner's designee will be notified prior to segregation for any situation not covered in Section VI.(D)(3)(b and c).

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- d. At privately managed facilities, if any of the situations described in Section VI.(D)(3)(b)(9)(a-c) above or Section VI.(D)(3)(e) below exist, the commissioner's designee/TDOC employee must approve actual placement of an inmate in segregation.
 - (1) If the commissioner's designee is immediately available to review the situation, he/she shall sign the Movement/ Confinement Checklist approving segregation placement, or shall issue a signed memorandum denying the request.
 - (2) If the commissioner's designee is not immediately available in person, but is immediately reached by telephone, he/she shall be advised verbally of the situation. If he/she approves of the segregation request, the senior security officer shall sign the Movement/Confinement Checklist placing the inmate in segregation, with the notation "per (name of authorizing TDOC official)", and indicating the date and time of approval. The commissioner's designee shall subsequently review and sign the document immediately upon his/her availability.
 - (3) If the commissioner's designee is neither immediately available in person or by telephone, the senior security officer shall contact the ranking shift officer on duty at TCIP, describe the situation, and follow the procedures described in Section VI.(D)(3)(d)(2) above. The commissioner's designee shall subsequently review and sign the document as soon as possible.
 - (4) If the shift supervisor determines it to be appropriate to defuse or avoid a potential confrontation, the inmate will be escorted to segregation while approval is being obtained. This action shall be documented on a Movement/Confinement Checklist.
- e. When an inmate is suspected of a Class A or B infraction, and the senior security officer determines that the inmate should be held in segregation pending investigation, the following shall occur:
 - (1) Depending upon the circumstances, the procedure specified in Section VI.(D)(3)(b) or (c) may be applicable and should be followed, except that the disciplinary report should state that the inmate is suspected of a rule infraction rather than charged with one.
 - (2) When an alleged rule violation is reported, an appropriate investigation should be initiated within 24 hours of the time the violation is reported and should be completed without unreasonable delays.
 - (3) If the inmate is released from segregation without being charged with a disciplinary infraction, the report BI01MGL for pending investigation should not be placed in the inmate's institutional

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record. It will, however, be maintained in an office file designated by the warden.

- (4) An inmate should not be held in segregation pending investigation for more than eighteen (18) hours without the matter being reviewed by the warden or warden's designee and a finding made by that person that probable cause exists to suspect that the inmate committed the infraction. The warden or warden's designee must sign a report stating that conclusion.
 - (5) No inmate should be held for more than seven (7) calendar days pending investigation. Any delay shall be reviewed/approved/denied by the warden/designee/commissioner's designee at privately managed facilities. The inmate shall be notified of any delay in the investigation and the expected completion of the investigation.
 - (6) Immediately upon conclusion of the investigation, the inmate should be charged with an infraction or released from segregation. Procedures specified for notifying the inmate of the charges should be followed. The time limit within which the disciplinary hearing officer/chairperson must convene (as provided in Section VI.(A)(3) above) should be measured from the time when the investigation is completed and the inmate is charged with the violation.
- f. When the decision is made to segregate an inmate or transfer the inmate to a more secure institution pending a hearing (or to request approval of these actions by the commissioner's designee at privately managed facilities), the following will be accomplished:
- (1) The warden, deputy warden, associate/assistant warden, chief of security, and commissioner's designee at privately managed facilities will be immediately notified.
 - (2) Appropriate entries will be made on Segregation (LIBD) by the institutional staff (including the receiving facility when applicable).
 - (3) The inmate should be allowed to collect those articles of property which he/she is permitted to have while in segregation or at the institution to which he/she is being transferred, or designated staff will immediately remove these items from the inmate's assigned cell and take them to the segregated inmate.
 - (4) All other personal belongings should be collected, inventoried in writing, signed for by the employee and inmate, and stored safely and securely in the institution's property room with a copy supplied to the inmate. The inmate's property shall never be collected/packed by another inmate.

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4. Additional procedures include the following:
 - a. Any or all of the following parties may request a continuance of the scheduled hearing and the disciplinary hearing officer/chairperson may grant a continuance for a specified period of time up to seven (7) days. No single continuance should exceed seven (7) calendar days unless the basis for the continuance is beyond the control of the requesting party.
 - (1) Inmate who is the subject of the hearing
 - (2) Inmate/staff advisor
 - (3) Reporting employee
 - (4) A designee of the warden
 - (5) Commissioner's designee at privately managed facilities
 - b. Page 2 of the CR-1834 shall clearly state the reason(s) for the granting or denying of the continuance request.
 - c. All temporary transfers to more secure institutions and/or subsequent permanent transfers must be accomplished in accordance with Policy #403.01.
5. An inmate will be given the option to waive the right to a formal disciplinary hearing and due process.
 - a. An Agreement to Plead Guilty and Waiver of Disciplinary Hearing and Due Process Rights, CR-3171, will be made available to inmates receiving a formal disciplinary report. The location(s) of the form will be designated by the warden/designee and easily accessible to all inmates.
 - b. If the inmate wishes to exercise the waiver provided by this agreement form, he/she will sign the form in the presence of a staff witness (other than the reporting official), who will also sign the form. If the inmate is under the age of eighteen (18) or has been declared mentally incompetent by a qualified mental health professional, an advisor shall be appointed to assist the inmate. The form will be attached to the disciplinary report and forwarded to the disciplinary board chairperson, who will sign and date the form. The form must be completed within two (2) working days after the issuance of the disciplinary report.
 - c. The inmate will waive the following rights when signing this agreement:
 - (1) To personally appear before the disciplinary board or hearing officer
 - (2) To plead not guilty and to have the case against him/her proven by a preponderance of the evidence presented

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- (3) To present his/her own version of the facts
- (4) To call witnesses in his/her own behalf
- (5) To cross-examine his/her accuser and hostile witnesses
- (6) To appeal the decision of the disciplinary board/hearing officer and the punishment imposed.

- d. When an inmate has agreed to waive his/her due process rights and plead guilty, the disciplinary board chairperson or hearing officer shall question the inmate to be certain he/she understands that by waiving a disciplinary hearing and all due process rights, that he/she must accept and cannot appeal the punishment imposed, and that his/her actions are entirely voluntary.
- e. Within five (5) working days, the disciplinary board/hearing officer shall impose sanctions. The decision as to sanctions must be made by the three member disciplinary board in all cases of Class A or Class B infractions for which accumulated sentence credits may potentially be removed.
- f. The inmate shall be informed immediately upon determination of any sanctions imposed. For privately managed facilities, approval must be obtained from the commissioner's designee before sanctions are imposed.
- g. Decisions to be made by the disciplinary board/hearing officer utilizing this procedure may only be delayed pending further necessary investigation of the offense.
- h. A copy of CR-3171 will be attached to and distributed with Disciplinary (LIBK) screen/ CR-1834.

E. The Disciplinary Hearing

- 1. The inmate charged with the rule infraction(s) shall have the right to appear in person before the board/hearing officer at all times, except:
 - a. When the board/hearing officer is receiving testimony from a confidential source.
 - b. During the board's deliberations or the hearing officer's review of the charge.
 - c. If the inmate is disorderly (i.e., preventing the orderly conduct of the hearing). In such cases, the advisor may remain present on the inmate's behalf.
 - d. When the inmate signs an agreement to plead guilty.
- 2. At privately managed facilities, the commissioner's designee shall observe all Class A disciplinary hearings and all Class B hearings where good conduct credits

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may potentially be lost, and shall approve or modify recommendations of the disciplinary board (in Class B or C hearings) upon completion of the hearing.

3. The disciplinary hearing shall be conducted pursuant to the following procedures:
 - a. The board chairperson/hearing officer shall make the following inquiries, the answer(s) to which shall be stated in the findings of the board.
 - (1) Whether the inmate waived the 24-hour notice
 - (2) Whether the inmate waived the right to have the reporting officer present
 - (3) Whether the inmate waived the right to call a witness(es) in his/her behalf
 - (4) Whether and when the inmate was provided with a copy of the disciplinary report
 - (5) Whether any inmate entering a plea of guilty has been advised and understands that by so doing, he/she is waiving the right to call witness(es) on his/her behalf, to cross examine his/her accuser and any hostile witnesses, to review any adverse documentary evidence presented, and to have the case against him/her proved by a preponderance of the evidence presented.
 - (6) Whether the inmate is represented by an inmate or staff advisor, the name of the advisor, and whether the inmate has had adequate time to consult with his/her advisor; and, if not represented by an advisor, whether he/she waives such representation.
 - (7) Whether the hearing has been continued previously and, if so, at whose request and for how long.
 - (8) Whether the inmate has been held in segregation, or in any more restricted status than that which he/ she was in when charged, pending the hearing; and if so, what, where, and for how long.
 - (9) Whether any inmate entering a plea of guilty was advised that the decision of the board/hearing officer shall not be appealable, including any punishment imposed by the board/hearing officer. The inmate shall sign in the appropriate space on CR-1834 his/her understanding and acceptance of this no appeal provision.
 - b. If the inmate pleads "guilty", the inmate or his/her advisor may make a statement to the board/hearing officer prior to the imposition of any punishment by the board/hearing officer. The decision (at privately managed facilities, the recommendation) as to sanctions must be made by the three member disciplinary board in all cases of Class A or Class B infractions for which accumulated sentence credits may potentially be removed.

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- c. If the inmate pleads "not guilty", he/she shall be permitted the following:
 - (1) The inmate shall have the right to decline to testify, and it shall be the burden of the reporting employee to prove guilt by a preponderance of the evidence.
 - (2) To have the evidence against the inmate presented first. The board/hearing officer shall consider all evidence which it finds to be reliable, whether or not such evidence would be admissible in a court of law.
 - (3) The inmate or advisor will be allowed to cross-examine any witness (except a confidential source) who testified against him/her and to review all adverse documentary evidence (except confidential information).
 - (4) Whenever the reporting officer was a witness to the alleged infraction or possesses any information regarding the infraction charged, he/she shall be present and testify at the hearing, or the chairperson/hearing officer may allow testimony from the employee by speaker phone if the employee is not on the premises of the facility at the time of the hearing, unless this requirement is waived by the inmate in writing. (See CR-1834.) By waiving the presence of the reporting officer, the inmate is agreeing to have the officer's statements in the disciplinary report accepted at the hearing in lieu of testimony and the chairperson/hearing officer will so advise the inmate. Even if such an appearance is waived by the inmate, the employee may appear and testify at the hearing.
 - (5) After all evidence against the inmate has been presented, the inmate shall be permitted to testify in his/her own behalf if he/she chooses.
 - (6) The inmate shall be permitted to present the testimony of relevant witness(es), unless allowing a witness to appear would pose a threat to institutional safety or order.
- d. The board/hearing officer shall record on a Disciplinary Continuation, CR-1831, specific reason(s) for not permitting the attendance of a witness requested by an inmate.
 - (1) An inmate who wishes to have witness(es) (inmate or staff) present to testify on his/her behalf at the hearing shall complete an Inmate Witness Request, CR-3511, and submit it to the chairperson/hearing officer at least twenty-four (24) hours prior to the hearing. The chairperson/hearing officer shall indicate on the form whether the inmate's request has been approved or denied and, if a requested witness is denied, the specific reason(s) for not permitting the attendance of the witness requested by an inmate.

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- (2) If an inmate fails to request a witness on CR-3511 prior to the hearing, the chairperson/hearing officer may still allow the witness to testify. Factors to be considered in making such a decision include the witness, the nature of the witness' testimony and how difficult it would be to obtain the witness' testimony.
 - (3) An inmate may submit a written witness statement when the personal appearance of a witness has been denied.
 - (4) When a witness cannot be physically present at a hearing, the chairperson/hearing officer may allow his/her testimony to be given by telephone, provided a speaker telephone is used so that all persons participating in the hearing can hear the testimony.
 - (5) When an inmate commits a disciplinary offense at an institution but is transferred to another institution prior to the disciplinary hearing, the disciplinary board/hearing officer at the receiving institution shall hear the disciplinary case. Witnesses for such hearings shall testify as set forth in Section VI.(E)(3)(d)(4) above.
- e. When the disciplinary hearing officer/chairperson determines that it should receive testimony from a confidential source whose identity cannot be disclosed due to fear of reprisals, it shall be the disciplinary hearing officer's/chairperson's responsibility to independently access and verify the reliability of the informant's testimony. Where the reliability of the confidential informant has not been independently verified, such testimony shall not be considered by the disciplinary board/hearing officer in the disposition of the disciplinary charge(s). Whenever confidential information is utilized by the disciplinary hearing officer/chairperson as a basis for its decision, a Contemporaneous Record of Confidential Informant Reliability, CR-3510, shall be completed to document the factual basis for the disciplinary hearing officer's/chairperson's finding that the informant's information was reliable. At privately managed facilities, the commissioner's designee shall review and initial the form. This form shall be considered confidential and kept as a non-public access record in an area designated by the warden.
 - f. At any time during the formal disciplinary process, the disciplinary hearing officer/chairperson and/or commissioner's designee at privately managed facilities may order the hearing continued. In this instance, the affected inmate or his/her advisor shall be notified of the continuance and the reason(s) documented on the hearing summary.
 - g. When the testimony of a witness is to be heard by the disciplinary hearing officer/chairperson, all other witnesses, except the accused inmate and advisor, shall be excluded from the room.
 - h. Attorneys shall not be permitted to participate in disciplinary hearings but may be permitted to be present as observers.

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- i. At the conclusion of the hearing, the disciplinary hearing officer/chairperson and commissioner's designee at privately managed facilities (if applicable) shall review and consider findings in the case. The disciplinary hearing officer/chairperson shall base the decision solely on the information obtained during the hearing process, including staff reports, the statements of the inmate charged as well as his/her advisor, and any other evidence derived from witnesses and documents.
 - (1) The inmate is presumed innocent and the case against him/her must be proved by a preponderance of the evidence.
 - (2) The decision of the disciplinary hearing board need not be unanimous. A majority vote shall control the decision.
 - (3) The Class A disciplinary chairperson may vote only if two members disagree on the guilt or innocence of the charged inmate.
 - (4) At privately managed facilities, the commissioner's designee shall approve/modify all board recommendations upon completion of the hearing as detailed in Section VI.(E)(2).
- j. At the conclusion of the review or deliberations, the disciplinary hearing officer/chairperson and commissioner's designee at privately managed facilities (if applicable) shall reconvene and advise the inmate of the decision and of his/her ability to appeal (if the inmate pled not guilty) an adverse decision to the warden (through the warden to the Assistant Commissioner of Operations at privately managed facilities) within fifteen (15) calendar days of receipt of the CR-1834.

All inmates pleading not guilty should be provided with a copy of the Notice of Appeal Procedures. (See example at end of policy.) If the inmate chooses to appeal, he/she shall be provided with a copy of the Disciplinary Report Appeal, CR-1833, pages 1 and 2, and CR-1831.
- k. Within five (5) working days after the conclusion of the disciplinary hearing, the board chairperson/hearing officer shall render a CR-1834 as follows and shall enter all appropriate information on Disciplinary (LIBK) and Disciplinary Decision (LIBL):
 - (1) Containing the information specified above in Section VI.(E)(3)(a).
 - (2) Stating the violation charged, the inmate's plea and the finding of the board/hearing officer.
 - (2) Stating the names of all persons who appeared and testified (except confidential sources).
 - (4) Stating the names of all other persons present at the hearing (except confidential sources).

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- (5) Stating detailed reasons for the board's/hearing officer's and/or commissioner's designee's at privately managed facilities (if applicable) decision and summarizing the evidence which led to such decision.
 - (6) Certifying that the board/hearing officer advised the inmate of the mechanism by which he/she may appeal any adverse decision of the board/hearing officer (provided that the inmate pleaded not guilty).
 - (7) Evidence used in a disciplinary hearing which is determined to be STG related by the hearing officer/disciplinary board shall be forwarded to the institutional STG coordinator at the conclusion of the hearing.
- l. A copy of the hearing summary shall be given to the inmate and the original placed in the inmate institutional record (IIR).
- m. Disciplinary Log, CR-0255, shall be completed and forwarded to the warden/designee for review. The form shall be initialed when reviewed.
- n. Records of disciplinary hearings, including CR-0255, shall be maintained for a period of at least one (1) year by the chairperson/hearing officer.
4. The board/hearing officer shall dispose of the case pursuant to the following guidelines:
 - a. Disposition

It is permissible to find an inmate guilty of two (2) charges that are separate and distinct, but occurring in the same incident (e.g., an "assault" charge which occurred while the inmate was also guilty of a charge of being "out of place").

The disciplinary board/hearing officer and/or commissioner's designee at privately managed facilities may dispose of cases only in the following ways:

 - (1) Dismissal of charges - not guilty, or dismissal of charges, in which case all copies of the disciplinary reports are destroyed except the inmate's. Designated staff shall enter the board's findings on Disciplinary Decision (LIBL). TOMIS is programmed to automatically delete all Disciplinary (LIBK) reports with not guilty and dismissed findings or those with no disposition posted that have been in the system for fourteen (14) days. A report listing those deleted is available on INFOPAC BI01MDD.
 - (2) Verbal warning - Shall not prompt loss of sentence credits or effect inmate's CAF score for this charge, but may enhance future disciplinary board/hearing officer actions. Verbal warnings may be considered when reviewing inmates on administrative

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segregation status for release to the general population. (See Policy #404.10.) No other action listed below may be taken in conjunction with a verbal warning. Disposition shall be posted on Disciplinary Decision (LIBL).

- (3) Written warning. Disposition shall be posted on Disciplinary Decision (LIBL).
- (4) Restriction of recreational privileges for up to sixty (60) days (not to include access to law library privileges). In all instances where an inmate is convicted of the charge of "Refusing to Participate" and the inmate jobs coordinator determines that a job/program dismissal is warranted, in addition to any other punishment imposed, the inmate's television, radio, and tape player/compact disc player will be removed, commissary purchases will be restricted to basic hygiene items, and visitation privileges will be limited to attorneys and ministers only. (See Policy #505.07.) These restrictions will remain in effect for thirty (30) days after accepting a new job/program assignment. In instances where inmates have been convicted and are permitted to remain in the same job/program, these restrictions will remain in effect for thirty (30) days. An inmate will not be paid for the day of the incident if he/she is found guilty of "Refusing to Participate". (See Policy #504.04.)
- (5) In all instances where inmates are convicted of a positive test for illegal drugs, possession of illegal drugs/alcohol, drug paraphernalia, selling drugs, refusal of/or attempt to alter test, in addition to appropriate disciplinary actions, the warden shall modify the inmate's visits according to the following:
 - (a) First Offense - Visits shall be suspended for six (6) months.
 - (b) Subsequent Offenses - Visits shall be suspended for additional six (6) month periods.
 - (c) Attorney and minister visits are not affected by this section.
- (6) Up to thirty (30) days punitive segregation may be imposed for each separate offense of which an inmate is found guilty. Continuous confinement exceeding thirty (30) days must be reviewed and approved by the warden and commissioner's designee at privately managed facilities. No period of confinement may exceed a total of sixty (60) days for punitive segregation. Disposition shall be posted on Disciplinary Decision (LIBL). At privately managed facilities, any dispositions involving punitive segregation will require a Movement/Confinement Checklist to be completed unless the inmate was segregated prior to the hearing.

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- (7) Referral to the district attorney for criminal prosecution [requires warden's (and commissioner's designee's at privately managed facilities) approval via Central Office legal staff].
- (8) Recommendation for reclassification (may include recommendation for a particular treatment program or work assignment). Decisions shall be posted on Disciplinary Decision (LIBL).
- (9) Recommendation for dismissal from a job/program assignment. Disposition shall be posted on Disciplinary Decision (LIBL).
- (10) Recommendation of loss of good, honor, incentive, good conduct, PSRC or prisoner sentence credits, or extension of release eligibility date, which may only be imposed by the Class A disciplinary board (even in instances where the inmate has pled guilty). (See Policies #502.02 and #505.01.) Disposition shall be posted on Disciplinary Decision (LIBL).
- (11) Reduction in pay, reduction in inmate trust fund account, or placing a temporary hold on the inmate trust fund account for destruction or damage of property, stealing of property, or other obligations. Disposition shall be posted on Disciplinary Decision (LIBL).
 - (a) In no event shall an inmate's account be reduced below \$0.00 by such an action.
 - (b) If an inmate's account has sufficient balance, regardless of source, to satisfy such an obligation, the entire amount shall be deducted in one transaction.
 - (c) If an inmate's account balance is not sufficient to satisfy such an obligation, 100% of all subsequent deposits may be deducted until such obligation is satisfied, subject to (a) above.
 - (d) In the event an investigation by the Internal Affairs Division is necessary to determine if additional monies are owed, a temporary hold may be placed on the inmate account until the investigation has been completed. During the period the temporary hold is placed on the account, the inmate will only be allowed to purchase legal mail postage and personal hygiene items from the institutional commissary.
- (12) Assignment of extra duty.
- (13) Any punishment mandated by Policies #502.02, #507.02, and #506.21.

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- (14) Any combination of the above, excluding (1) and (2) above. Upon posting disciplinary board/hearing officer action on Disciplinary Decision (LIBL), press F13 to generate BI01MGL, Disciplinary Actions Report. Provide the inmate with a copy and place the original in the IIR file. Decisions shall be posted on Disciplinary Decision (LIBL).

b. Recommendation

The disciplinary board/hearing officer may recommend administrative segregation, which must be approved by the warden and commissioner's designee at privately managed facilities. (See Policy #404.10.) If administrative segregation is approved, Disciplinary Decision (LIBL) shall be appropriately posted.

c. Suspension and Revoking of Sentence

The disciplinary board/hearing officer/commissioner's designee at privately managed facilities may suspend for a period not to exceed sixty (60) days any punishment which is imposed. Decisions must be posted on Disciplinary Decision (LIBL). If the inmate is convicted of another disciplinary offense committed within the period of suspension, the board/hearing officer hearing the later charge may revoke the suspension and impose both the previous punishment and the punishment for the commission of the later offense.

d. Stay of Punishment

The disciplinary board/hearing officer/commissioner's designee at privately managed facilities has the authority to stay the effect of the punishment imposed until the case is appealed and a decision is made on the appeal.

e. Destruction of the Report

When the disposition of a case requires the destruction of the disciplinary report, it shall be the obligation of the hearing officer/chairperson to ensure that all copies of the report, except the inmate's, are destroyed, and enter the appropriate disposition on Disciplinary Decision (LIBL) and Disciplinary (LIBK). [See Section VI.(E)(4)(a)(1).]

f. Dismissal of Charges

- (1) A disciplinary report which fails to adequately state an offense, contains errors, or has not been properly completed shall be dismissed by the board/hearing officer, but the reporting officer may reinitiate the case by entering a new report on Incidents (LIBJ) and Disciplinary (LIBK) which corrects the error(s) contained in the original.

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A request shall be completed on the format provided by the Assistant Commissioner of Operations and forwarded by the warden to the Assistant Commissioner of Operations, asking that applicable TOMIS entries be deleted to allow for a corrected entry to be made at the institutional level.

- (2) When a disciplinary report is dismissed because of the failure to hear the case within the time limits set forth herein, it shall not be reinitiated.
- (3) When an inmate is found not guilty of the charged offense, he/she may not be recharged (No double jeopardy).

g. Disposition of Disciplinary Report

- (1) When the disciplinary action is not dismissed or does not involve the removal of sentence credits or the extension of an inmate's release eligibility date (RED), the disciplinary board/hearing officer shall send the original disciplinary report to the institutional record office.
- (2) When the disciplinary action involves the removal of sentence credits and/or the extension of an inmate's RED date, the disciplinary board chairperson shall send the original disciplinary report and Actions Involving Sentence Credits, CR-3298, to the warden. After the warden reviews and approves the disciplinary action, he/she shall forward the documents to the institutional records office. A copy of the disciplinary report and a copy of the CR-3298 shall be placed in the inmate's institutional record. The original disciplinary report and the actions involving the loss of sentence credits or RED date extension shall then be forwarded to the Assistant Commissioner of Operations, who will then review the action. If he/she approves the recommended action, the CR-3298 shall be signed and sent to Sentence Management Services (SMS), where the sentence shall be modified accordingly. Once the sentence modification is completed, SMS shall return the original documents to the institutional records office, and forward a copy of the disciplinary report and CR-3298 to Operational Support Services (OSS) for scanning. If the recommendation is denied, the denial shall be noted on the CR-3298. All forms shall be returned to the source, using the same route that was used previously, back to the institutional records office (and commissioner's designee at privately managed facilities) and disciplinary board chairman, who is responsible for correcting the inmate's record, including the paperwork in the institutional file and entries on TOMIS. The records office shall monitor the process until the credits are taken and/or the RED date is extended, or until the recommendation is denied.
- (3) Designated institutional personnel will enter the disciplinary board's/hearing officer's action on Disciplinary Decision (LIBL).

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F. Appeal Procedures for TDOC Institutions

Only the inmate (or the advisor at the inmate's request) may appeal a decision of the disciplinary board/hearing officer. Except as stated in Section VI.(E)(4)(f)(1) above, any decision resulting in a dismissal of a disciplinary charge shall be final and not subject to rehearing or reversal. Only an offense to which the inmate entered a plea of not guilty may be appealed. It is the responsibility of the inmate, not the inmate advisor, to ensure that any appeal is processed and that any such appeal adheres to time limits.

1. Warden

The appeal shall be to the warden of the institution where the disciplinary infraction occurred.

- a. If an inmate wishes to appeal a decision of the disciplinary board/hearing officer, he/she shall file the appeal only on the CR-1833. The document number is to be completed. The appeal must be filed with the warden within fifteen (15) calendar days after receipt of the written decision. Failure to file within that period will result in the automatic denial of the appeal unless the time delay is excused for good cause by the warden. The appeal shall set forth the reasons why the inmate believes an incorrect decision was reached or excessive punishment was imposed.
- b. Within fifteen (15) calendar days after the receipt of the appeal, the warden/designee shall review the appeal and the written findings and shall notify the inmate, in writing, stating the reasons why he/she has taken one of the following actions:
 - (1) Remanded the case for rehearing.
 - (2) Dismissed the charges. (It shall then be the warden's responsibility to ensure that all copies of CR-1834 and CR-1833, except the inmate's, are destroyed.)
 - (3) Reduced the punishment imposed (only sanctions involving recommendations of loss of good, honor, incentive, good conduct, PSRC, or PPSC, or extensions of release eligibility dates, may be increased.)
 - (4) Affirmed the decision.
- c. If the case is remanded to be reheard, an additional hearing will be conducted and will comply with the provisions set forth in Section VI.(E). The appropriate time limits set forth in Section VI.(A)(3)(a) and (b) shall control when the rehearing is held. Under no circumstances may the punishment imposed upon rehearing be more severe than that originally imposed, with the exception of recommendations of loss of sentence credits or extensions of release eligibility dates, which may be increased.

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- d. If the decision is reversed by the warden by dismissing charges or reducing punishment, the warden's decision shall be final.
- e. Depending on the action taken by the warden, the following disposition of the disciplinary forms shall take place:
 - (1) Remanded. Both the original and copy shall be returned to the board/hearing officer.
 - (2) Dismissed. Both the original and copy, except the inmate's copy, shall be destroyed.
 - (3) Affirm the decision or reduce the punishment. If the resulting punishment involves the taking of time, the original forms shall be sent to the Assistant Commissioner of Operations by the institutional records office. If a reduction in sentence (i.e., a guilty/written warning is reduced to a guilty/verbal) results, the Assistant Commissioner of Operations shall forward the request for modification to Systems Development Services (SDS) and any credit-related adjustment to SIS. If the resulting punishment does not involve the taking of time, the original shall be sent OSS. (Only sanctions involving recommendations of loss of good, honor, incentive, good conduct, PSRC or PPSC, or extensions of release eligibility dates, may be increased.)
 - (4) The warden's/designee's office will enter its decision on Disciplinary Decision (LIBL).

2. Commissioner

The second and final stage of an appeal shall be to the Commissioner of the TDOC. The commissioner may delegate the handling of appeals.

- a. If the inmate wishes to appeal the decision of the warden, he/she shall file the appeal only on CR-1833 with the commissioner within fifteen (15) working days after receipt of the written decision of the warden. The failure to file within this period will result in the automatic denial of the appeal unless a further time delay is excused by the commissioner for good cause. The appeal shall set forth the reasons why the inmate believes that the warden reached an incorrect decision in reviewing the original appeal.
- b. Within twenty (20) working days after receipt, the commissioner or designee shall review the appeal, the written decision of the warden, and the written decision of the Class A disciplinary board/hearing officer and notify the inmate in writing that he/she has taken one of the following actions:
 - (1) Remanded the case for rehearing
 - (2) Dismissed the charges (inmate can not be recharged for the same offense.)

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(3) Reduced the punishment imposed (only sanctions involving recommendations of loss of good, honor, incentive, good conduct, PSRC, or PPSC, or extensions of release eligibility dates, may be increased.)

(4) Affirmed the decision of the warden.

c. If the case is remanded, it shall be handled in the same manner as if remanded by the warden.

d. If the punishment is reduced or the decision of the warden is reversed, that decision is final.

e. Depending on the action taken by the commissioner, the disposition of the disciplinary forms shall take place in the following manner:

(1) Remanded. Both the original and copy shall be returned to the warden.

(2) Dismissed. Both the original and copy, except the inmate's copy, shall be destroyed. Designated staff shall enter the commissioner's decision on Disciplinary Decision (LIBL) and Disciplinary (LIBK).

(3) Affirm the decision or reduce the punishment. If the resulting punishment involves the taking of sentence credits or extension of an inmate's RED date, the original shall be sent to the Assistant Commissioner of Operations by the institutional records office. If a reduction in sentence (i.e., a guilty/written warning is reduced to a guilty/verbal) results, the Assistant Commissioner of Operations shall forward the request for modification to SDS and any credit-related adjustment to SIS. If the resulting punishment does not involve the taking of sentence credits or extension of an inmate's RED date, a copy shall be sent to the institutional records office to be filed in the inmate's institutional record.

(4) The Assistant Commissioner of Operations will cause the decision to be entered on Disciplinary Decision (LIBL).

3. Miscellaneous

a. Remand of the Case: Only the warden or commissioner may remand a case. The case may only be remanded upon the appeal of the inmate. The case may only be remanded for the following reasons:

(1) When the warden or commissioner finds that the Class A disciplinary board/hearing officer failed to permit the inmate to fully present his/her case, the case shall be remanded to the Class A disciplinary board composed of the same members or the hearing officer who originally heard the case. The board/hearing officer at the new hearing shall receive the evidence specified in

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the remand order and shall decide the case based upon that information and the evidence presented at the prior hearing and at the new hearing.

- (2) When the warden or commissioner finds that the disciplinary hearing failed to comply with the established disciplinary procedures to the apparent prejudice of the inmate, the case shall be remanded to the Class A disciplinary board, which may be composed of the same or new members, or the hearing officer, as directed in the remand order. The entire case shall be heard as if it had not been heard before, but a new disciplinary report need not be issued. The time limits for the hearing of a case the first time shall apply and shall commence to run on the date when the disciplinary board/hearing officer receives the remand order. Upon rehearing, the punishment imposed shall not be more severe than the punishment originally imposed. (Only sanctions involving recommendations of loss of good, honor, incentive, good conduct, PSRC, or PPSC, or extensions of release eligibility dates, may be increased).
- b. Dismissal: When a disciplinary report is dismissed because the inmate was improperly charged, the warden or commissioner may return it to the board/hearing officer of the institution involved to instruct the board/hearing officer to order a rewrite of the disciplinary report properly alleging the correct offense. Upon receipt and approval of a request, utilizing the format provided by the Assistant Commissioner of Operations, from the warden/designee, a message will be sent to MIS by the Assistant Commissioner of Operations requesting removal of the incident from Incidents (LIBJ). A new incident that properly alleges the offense shall be entered by the requesting institution. The time limits for the hearing of the case will commence to run once the inmate has been served with the rewritten report and the case shall be heard as if it had not been heard before.
- c. Return of Property: Within forty-eight (48) hours of the property room's normal work schedule, the property removed from the inmate's possession when placed in segregation shall be returned to him/her after release from segregation.
- d. Appeal after the disciplinary reports are processed: If an appeal results in a dismissal or change in a disciplinary action after the disciplinary transaction has been entered into TOMIS and filed in the institutional and OSS files, the disciplinary report appeal shall be sent to the Assistant Commissioner of Operations/designee who shall ensure that the appeal decision is properly reflected in the offender's record and on TOMIS. If the appeal results in a dismissal or reduction of punishment of the disciplinary, a request shall be sent to the Assistant Commissioner of Operations by the warden or commissioner, utilizing the format provided by the Assistant Commissioner of Operations, and stating the action to be taken, including any necessary deletions/modifications from Disciplinary

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(LIBK) and Disciplinary Decision (LIBL). If the appeal results in remanding a disciplinary case, the request shall not be sent until all remanded hearings are finalized. Upon finalization, the request will be forwarded to the manager of SDS who shall ensure appropriate deletions occur, and then forward to SIS to restore related credits.

- e. Forms: CR-1831 may be utilized with either of the existing forms if more narrative space is required. A CR-0255 shall be completed either as the hearings progress or at the completion of all cases adjudicated in a session. Any subsequent remands, dismissals, or reductions of punishment shall be noted on the log, in red ink, overlaying the original log entry.

G. Appeal Procedures for Privately Managed Facilities

Only the inmate (or the advisor at the inmate's request) may appeal a decision of the Class A disciplinary board/hearing officer. Except as stated in Section VI.(E)(4)(f)(1) above, any commissioner's designee's decision resulting in a dismissal of a disciplinary charge shall be final and not subject to rehearing or reversal. Only an offense to which the inmate entered a plea of not guilty may be appealed. It is the responsibility of the inmate, not the inmate advisor, to ensure that any appeal is processed and that any such appeal adheres to time limits.

1. Assistant Commissioner of Operations

The first stage of an appeal shall be through the warden to the Assistant Commissioner of Operations.

- a. If an inmate wishes to appeal a decision of the disciplinary board/hearing officer, he shall file the appeal only on the CR-1833. The document number is to be completed. The appeal must be filed with the Assistant Commissioner of Operations within fifteen (15) calendar days after receipt of the written decision of the board/hearing officer. Failure to file within that period will result in the automatic denial of the appeal unless the time delay is excused for good cause by the commissioner's designee. The appeal shall set forth the reasons why the inmate believes that the commissioner's designee reached an incorrect decision or imposed an excessive punishment.
- b. Within fifteen (15) calendar days after the receipt of the appeal, the Assistant Commissioner of Operations shall review the appeal and the written findings of the commissioner's designee and shall notify the inmate, in writing, stating the reasons why he/she has taken one of the following actions:
 - (1) Remanded the case for rehearing.
 - (2) Dismissed the charges. It shall then be the Assistant Commissioner of Operations' responsibility to ensure that all copies of reports CR-1834 and CR-1833, except the inmate's

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are destroyed and appropriate entry made on Disciplinary Decision (LIBL) and Disciplinary (LIBK).

- (3) Reduced the punishment imposed (only sanctions involving recommendations of loss of good, honor, incentive, good conduct, PSRC or PPSC, or extensions of release eligibility dates, may be increased.)
 - (4) Affirmed the decision of the commissioner's designee/hearing officer.
- c. If the case is remanded to be reheard, a hearing will be conducted pursuant to the provisions set forth in Section VI.(E) above, and shall be subject to the appropriate time limits set forth in Section VI.(A)(3)(a) and (b). Under no circumstances may the punishment imposed upon rehearing be more severe than that originally imposed, with the exception of recommendations of loss of sentence credits or extensions of release eligibility dates, which may be increased.
 - d. If the decision is reversed by the Assistant Commissioner of Operations by dismissing charges or reducing punishment, the Assistant Commissioner of Operations' decision shall be final.
 - e. Depending on the action taken by the Assistant Commissioner of Operations, the following disposition of the disciplinary forms shall take place:
 - (1) Remanded – Both the original and copy shall be returned to the board chairperson/hearing officer.
 - (2) Dismissed – Both the original and copy, except the inmate's copy shall be destroyed.
 - (3) Affirm the decision or reduce the punishment – If the resulting punishment involves the taking of time, the original forms shall be sent to the Assistant Commissioner of Operations by the institutional records office. If a reduction in sentence (i.e., a guilty/written warning is reduced to a guilty/verbal) results, the Assistant Commissioner of Operations shall forward the request for modification to SDS, and any credit-related adjustment to SIS. If the resulting punishment does not involve the taking of time, the original shall be sent to the institutional records office where a copy shall be made and filed in the inmate's institutional record and the original shall be sent to OSS. (Only sanctions involving recommendations of loss of good, honor, incentive, good conduct, PSRC or PPSC, or extensions of release eligibility dates, may be increased.)
 - (4) The Assistant Commissioner of Operations will enter his/her decision on Disciplinary Decision (LIBL).

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2. Commissioner

The second and final stage of an appeal shall be to the Commissioner of the TDOC. The commissioner may delegate the handling of appeals.

- a. If the inmate wishes to appeal the decision of the Assistant Commissioner of Operations, he shall file the appeal only on CR-1833 (See Section VI.(E)(3)(j).) with the commissioner within fifteen (15) working days after receipt of the written decision. The failure to file within this period will result in the automatic denial of the appeal unless a further time delay is excused by the commissioner for good cause. The appeal shall set forth the reasons why the inmate believes that the Assistant Commissioner of Operations reached an incorrect decision in reviewing the original appeal.
- b. Within twenty (20) working days after receipt, the commissioner or designee shall review the appeal, the written decision of the Assistant Commissioner of Operations, and the written decision of the commissioner's designee, and shall notify the inmate in writing that he/she has taken one of the following actions:
 - (1) Remanded the case for rehearing.
 - (2) Dismissed the charges (inmate cannot be recharged for the same offense).
 - (3) Reduced the punishment imposed (only sanctions involving recommendation of loss of good, honor, incentive, good conduct, PSRC or PPSC, or extensions of release eligibility dates may be increased).
 - (4) Affirmed the decision of the Assistant Commissioner of Operations.
- c. If the case is remanded, it shall be handled in the same manner as if remanded by the Assistant Commissioner of Operations.
- d. If the punishment is reduced or the decision of the Assistant Commissioner of Operations is reversed, that decision is final.
- e. Depending on the action taken by the commissioner, the disposition of the disciplinary forms shall take place in the following manner.
 - (1) Remanded – Both the original and copy shall be returned to the warden.
 - (2) Dismissed – Both the original and copy, except the inmate's copy, shall be destroyed. Designated staff shall enter the commissioner's decision on Disciplinary Decision (LIBL) and Disciplinary (LIBK).

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- (3) Affirm the decision or reduce the punishment – If the resulting punishment involves the taking of sentence credits or extension of an inmate's RED date, the original shall be sent to the Assistant Commissioner of Operations by the institutional records office. If a reduction in sentence (i.e., a guilty/written warning is reduced to a guilty/verbal) results, the Assistant Commissioner of Operations shall forward the request for modification to SDS and any credit-related adjustments to Sentence Information Services (SIS). If the resulting punishment does not involve the taking of sentence credits or extension of an inmate's RED date, a copy shall be sent to the institutional records office to be filed in the inmate's institutional record.
- (4) The Assistant Commissioner of Operations will have the decision entered on Disciplinary Decision (LIBL).

3. Miscellaneous

- a. Remanding a case. Only the Assistant Commissioner of Operations or commissioner may remand a case. The case may only be remanded upon the appeal of the inmate. The case may only be remanded for the following reasons:
 - (1) When the Assistant Commissioner of Operations or commissioner finds that the disciplinary board/hearing officer/commissioner's designee failed to permit the inmate to fully present his case, the case shall be remanded to the same member(s) or hearing officer who originally heard the case. The board/hearing officer at the new hearing shall receive the evidence specified in the remand order and shall decide the case based upon that information and the evidence presented at the prior hearing and at the new hearing. (Only sanctions involving recommendations of loss of good, honor, incentive, good conduct, PSRC or PPSC, or extensions of release eligibility dates, may be increased.)
 - (2) When the Assistant Commissioner of Operations or commissioner finds that the disciplinary board/hearing officer failed to comply with the established disciplinary procedures to the apparent prejudice of the inmate, the case shall be remanded to the disciplinary board/hearing officer, which may be composed of the same or new members, as directed in the remand order. The entire case shall be heard as if it had not been heard before, but a new disciplinary report need not be issued. The time limits for the hearing of a case the first shall apply and shall commence to run on the date when the disciplinary board/hearing officer receives the remand order. Upon rehearing, the punishment imposed shall not be more severe than the punishment originally imposed.

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- b. Dismissal. When a disciplinary report is dismissed because the inmate was improperly charged, the warden/commissioner/Assistant Commissioner of Operations/commissioner's designee may return it to the board/hearing officer to instruct the board/hearing officer to order a re-write of the disciplinary report properly alleging the correct offense. Upon receipt of a request from the warden, a message will be sent to MIS from the Assistant Commissioner of Operations requesting removal of the incident from Incidents (LIBJ). A new incident report that properly alleges the offense shall be entered by the requesting institution. The time limits for the hearing of the case will commence to run when the inmate has been served with the written report, and the case shall be heard as if it had not been heard before.
- c. Return of Property. Within forty-eight (48) hours of the property room's normal work schedule, the property removed from the inmate's possession when placed in segregation shall be returned to him/her after release from segregation.
- d. Appeal after the disciplinary reports are processed. If an appeal results in a dismissal or change in a disciplinary action after the disciplinary transaction has been entered into TOMIS and filed in the institutional and OSS files as set forth in Section VI(F)(1)(e)(3), the disciplinary report appeal shall be sent to the Assistant Commissioner of Operations, who shall ensure that the appeal decision is properly reflected in the offender's record and on TOMIS. If the appeal results in a dismissal or reduction of punishment of the disciplinary, a request shall be sent to the Assistant Commissioner of Operations by the warden or commissioner's designee, utilizing the format provided by the Assistant Commissioner of Operations, and stating the action to be taken, including any necessary deletions/modifications from Disciplinary (LIBK) and Disciplinary Decision (LIBL). If the appeal results in the remand of a disciplinary case, the request shall not be sent until all remanded hearings are finalized. Upon finalization, the request will be forwarded to the manager of Systems Development Services (SDS), who shall ensure appropriate deletions occur, and then forward to SIS to restore related credits.
- e. Forms. CR-1831 may be utilized with either of the existing forms if more narrative space is required. A Disciplinary Log, CR-0255, shall be completed either as the hearings progress or at the completion of all cases adjudicated in a session. This form shall be reviewed to assure conformity and consistency with disciplinary board policy and regulations by the warden, assistant warden, or chief of security in the appropriate office for future reference and filed appropriately. Any subsequent remands, dismissals, or reductions of punishment shall be noted on the log, in red ink overlaying the original log entry. A copy of each log sheet shall be forwarded to the commissioner's designee.

VII. ACA STANDARDS: 4-4227, 4-4229 through 4-4248, 4-4250, 4-4252, 4-4255, and 4-4281.

VIII. EXPIRATION DATE: June 15, 2007.

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EXAMPLE

NOTICE OF APPEAL PROCEDURES

You have been convicted of the disciplinary offense(s) shown on the Disciplinary Report Hearing Summary, CR-1834. You may appeal both the decision of the disciplinary board/disciplinary hearing officer and the punishment imposed. If you wish to appeal, you must first appeal to the warden. After that appeal has been decided, you can then appeal to the commissioner.

The following procedures must be adhered to in appealing your case:

1. Your appeal must be made on the Disciplinary Report Appeal Form, CR-1833, and must include completed copies of the Incident Report (LIBK), Disciplinary Hearing Summary, CR-1834, and, if the appeal is to the Commissioner, the Disciplinary Report Appeal, CR-1833, containing the warden's response/Assistant Commissioner's response if disciplinary conviction was at a privately managed facility.
2. The appeal to the warden must be made within fifteen (15) calendar days after receipt of the Disciplinary Report Hearing Summary, CR-1834, from the disciplinary board.
3. An appeal to the commissioner must be made within fifteen (15) working days after receipt of the Disciplinary Report Appeal from the warden.
4. The time limits will only be extended for good cause, and otherwise a late appeal may be denied for being late.

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TENNESSEE DEPARTMENT OF CORRECTION
DISCIPLINARY REPORT HEARING SUMMARY

OFFENDER NUMBER: _____							
INMATE NAME (LAST) (14 characters) _____				FIRST (10 characters) _____		MI _____	
ADVISOR NUMBER: _____							
INMATE ADVISOR NAME (LAST) (14 characters) _____				FIRST (10 characters) _____		MI _____	
DATE OF HEARING				PLACE OF HEARING		INMATE'S PLEA	
MO	DAY	YEAR	TIME	INSTITUTION		GUILTY – Y	NOT GUILTY - N
_____	_____	_____	_____	_____		1 - _____ 2 - _____	3 - _____ 4 - _____

COMMITTEE DECISION									
GUILTY – Y		NOT GUILTY - N		APPEALED – Y		NOT APPEALED – N		DISCIPLINARY ACTION	
						(1 character)		(2 characters)	
1 - _____	2 - _____	3 - _____	4 - _____	_____		_____			
DISCIPLINARY ACTION DATE (MONTH, DAY, YEAR)				CLASS OF INFRACTION (A, B, or C)				PROBATION END DATE (MONTH, DAY, YEAR)	
_____				1 - _____ 2 - _____ 3 - _____ 4 - _____				_____	
ENTERED BY _____				DATE _____		VERIFIED BY _____			
						DATE _____			

PRELIMINARY INQUIRY

1. WAIVERS

- a. I agree to waive the right to 24-hour notice.

_____	_____	_____
Inmate Signature	Number	Date

- b. I agree to waive the right to have the reporting official present.

_____	_____	_____
Inmate Signature	Number	Date

- c. I agree to waive the right to call witness (es) on my behalf.

_____	_____	_____
Inmate Signature	Number	Date

2. CONTINUANCE:

- a. Was case previously continued? _____

- b. If yes, when and at whose request? _____

3. CUSTODY PENDING HEARING:

- a. Was inmate held in segregation/more restrictive setting pending hearing? _____

- b. If yes, when was he/she placed in segregation? _____

4. When was inmate given offense citation? _____

5. Is inmate represented by inmate advisor? _____

6. Has inmate or inmate advisor had adequate time to prepare defense? _____

OFFENDER NAME: _____ **TDOC NUMBER:** _____

HEARING

I fully understand that by entering a plea of guilty to the aforementioned charge(s), I am waiving my right to call witness(es) and present evidence on my behalf, must accept whatever punishment is imposed, and will not be allowed to appeal.

_____ Offender's Signature	_____ Number	_____ Date
_____ Witness(es) for Offender	_____ Witness(es) Against Offender	
_____	_____	
_____	_____	

OTHERS PRESENT:

STATEMENT OF ACCUSED: _____

DESCRIPTION OF PHYSICAL EVIDENCE INTRODUCED (Attach all test results): _____

FINDINGS OF FACT AND SPECIFIC EVIDENCE RELIED UPON TO SUPPORT THOSE FINDINGS _____

DISPOSITION AND A STATEMENT OF REASONS WHICH SUPPORTS THAT DECISION: _____

RECOMMENDATION OF LOSS OF:

1.	Good/Honor Time, Good Conduct	(Amount)	_____
2.	Incentive Time, PPSC	(Amount)	_____
3.	Other (Specify):	(Amount)	_____

_____ Disciplinary Board Chairperson/Hearing Officer Signature	_____ Date
_____ Member	_____ Date
_____ Member	_____ Date



TENNESSEE DEPARTMENT OF CORRECTION
I N F O R M A L D I S C I P L I N E R E C O R D

Institutional Docket Number: _____ Date: _____

Inmate Name: _____ TDOC Number: _____

1. I have been informed and agree that I have committed the following disciplinary infraction: _____

2. I have discussed this matter with _____
Reporting Officer

and have agreed to accept an informal disciplinary sanction rather than have him/her initiate formal disciplinary actions against me. I understand that by signing this form and accepting an informal disciplinary sanction I am waiving the following rights:

- a. The right to be formally charged with the disciplinary infraction(s) listed above.
- b. The right to have my guilt and punishment decided by the disciplinary board.
- c. The right to a disciplinary hearing at which I would have the following rights:
 - To personally appear
 - To plead not guilty and to have the case against me proven by a preponderance of evidence
 - To present my own version of the facts
 - To call witnesses in my own behalf and confront and cross-examine my accuser and hostile witnesses
- d. The right to appeal the decision of the disciplinary board and the punishment imposed by the board.

I agree to perform the following informal sanction(s): _____

Should I fail to comply with the sanction from the office in a satisfactory manner, I understand the officer may submit the infraction/charge as listed to the disciplinary board for hearing and formal disposition; and, signing this form will constitute a guilty plea of waiver of my due process hearing rights.

Inmate Signature

Date

Reporting Official

Date

Shift Supervisor

Date

Reviewed By: _____
Warden / Commissioner's Designee

Date



TENNESSEE DEPARTMENT OF CORRECTION
CONTEMPORANEOUS RECORD OF CONFIDENTIAL INFORMANT RELIABILITY

DATE: _____ DISCIPLINARY REPORT NUMBER: _____

INMATE NAME: _____ TDOC NUMBER: _____
(LAST FIRST MIDDLE INITIAL)

The testimony of a confidential witness was substantially relied on by the board to reach its decision in this matter.
The confidential witness provided the board with the following information

The reliability of the informant was verified in the following manner:

_____ Corroborating testimony from witness at hearing

_____ Sworn statement before the board by investigating officer, _____, that he/she believes the confidential informant(s) information to be reliable because the particular informant(s) has/have proved reliable in specific past instances.

_____ Sworn statement before the board by investigating officer, _____, that he/she believes the confidential informant(s) information to be reliable because it has been independently corroborated on specific material points.

_____ First-hand knowledge of the source(s) of the information and knowledge of their reliability based upon the informant(s) past record of reliability

Signature of Board Chairperson/Hearing Officer

Date

PAGE _____ OF _____

[illegible]

MEMBER: _____



TENNESSEE DEPARTMENT OF CORRECTION

INMATE WITNESS REQUEST

INMATE NAME: _____ TDOC NUMBER: _____

DISCIPLINARY REPORT NUMBER: _____

I wish to have the following individual(s) testify at the disciplinary hearing of this matter:

1. a. Name/TDOC Number: _____

b. Brief summary of expected testimony: _____

c. Approved _____ Denied _____ (If denied, state reasons for denial):

2. a. Name/TDOC Number: _____

b. Brief summary of expected testimony: _____

c. Approved _____ Denied _____ (If denied, state reasons for denial):

Inmate Signature

TDOC Number

Date

Time

Disciplinary Board Chairperson/Hearing Officer Signature

Date

Time



Institution of Confinement: _____

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

Date _____

Inmate Name: _____

Remainder of form to be completed by warden or commissioner

Disposition of Appeal

Conviction Affirmed _____

Punishment Reduced _____

Case Remanded to Board _____

Charges Dismissed _____

Reason(s) for Disposition _____

Instructions to Board on remand or description of reduced punishment::

Date

Signature of Warden or Commissioner



TENNESSEE DEPARTMENT OF CORRECTION
DISCIPLINARY CONTINUATION

DATE: _____

DISCIPLINARY NUMBER: _____

NAME (LAST) (14 characters)

FIRST (10 characters)

MI

OFFENDER NUMBER:

ATTACH TO: **BIO1D026** **CR-1833** **CR-1834**

Signature of Reporting Employee

Date _____

Inmate Signature

Date _____



TENNESSEE DEPARTMENT OF CORRECTION
AGREEMENT TO PLEAD GUILTY
AND
WAIVER OF DISCIPLINARY HEARING AND DUE PROCESS RIGHTS

Inmate Name: _____ TDOC Number: _____

Having been in violation of rules as follows:

Disciplinary Docket Number: _____

Offenses and Category _____

I admit I violated the above listed rule(s) and agree to plead guilty and accept whatever punishment the disciplinary board may impose. In making this agreement, I understand that I am waiving the following rights:

1. The right to personally appear before the disciplinary board
2. The right to plead not guilty and to have the case against me proven by a preponderance of evidence.
3. The right to present my own version of the facts.
4. The right to call witnesses in my own behalf.

I am signing this agreement of my own free will and under no threat or coercion to do so. I understand that by signing this agreement, I must accept whatever punishment the disciplinary board may impose and will not be allowed to appeal.

Inmate Signature

Date

Staff Witness

Date

Disciplinary Board Chairperson

Date



TENNESSEE DEPARTMENT OF CORRECTION SENTENCE CREDIT/EXTENSION ACTIONS

INSTITUTION

OFFENDER NAME: (LAST) (FIRST) (MI) TDOC NUMBER

Triggering Incident Number: _____ Incident Date: _____

RECOMMENDED SENTENCE CREDIT ACTION TO BE TAKEN:

LOSS OF CREDITS

____ Days PPSC Time
____ Days PSRC Time
____ Days Other (_____)

RESTORATION OF CREDITS

____ Days PPSC Time
____ Days PSRC Time
____ Days Other (_____)
Reason for Restoration: _____

RECOMMENDED RELEASE DATE EXTENSION (Check appropriate boxes):

- ☐ **Escape** from Minimum Restricted or Higher Custody, or any Custody with Actual or Threatened Violence [Three (3) year extension]
- ☐ **Assault** (check one) ☐ Assault with physical injury - Two (2) year extension
☐ Assault with serious injury - Five (5) year extension

Fully describe extent and nature of victim(s)'s injuries and medical treatment required (Attach additional sheet if necessary): _____

☐ **Reverse Extension** and Restore Release Date. Reason: _____

RECOMMENDATIONS MADE BY (Check One):

____ Disciplinary Committee
____ Administrative Review Board
____ Other _____

Member

Member

Date

Chairperson

FINAL DECISION:

Warden

Commissioner

____ Approved

____ Disapproved

____ Approved

____ Disapproved

Date

Date